

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RODNEY BRADLEY,

Petitioner,

v.

Case No. 22-C-1269

EARNELL LUCAS,
Milwaukee County Sheriff,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
PETITION WITHOUT PREJUDICE**

Petitioner Rodney Bradley, who is currently detained in the Milwaukee County Jail, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on October 26, 2022. He is currently awaiting trial on felony charges pending in Milwaukee County Circuit Court of attempted first degree intentional homicide with the use of a dangerous weapon, unlawful possession of a firearm, and stalking with use of a dangerous weapon. In his petition, Bradley seeks dismissal of his pending state charges and his release from custody on the basis that his right to a speedy trial has been violated and that he is being held unlawfully. On November 9, 2022, Magistrate Judge William E. Duffin screened the petition and filed a Report and Recommendation, in which he recommends that the petition be dismissed for failure to exhaust state court remedies. Bradley filed an objection to the Report and Recommendation on November 22, 2022.

Bradley's petition must be dismissed based on his failure to exhaust his state court remedies. As explained in Magistrate Judge Duffin's Report and Recommendation, "if a petitioner seeks dismissal of the charges against him, at a minimum he must first exhaust his remedies in

state court before turning to federal court.” Dkt. No. 5 at 5; *see also* *Blanck v. Waukesha Cty.*, 48 F. Supp. 2d 859, 860 (E.D. Wis. 1999) (“[T]he interests of comity have caused courts to apply the doctrine of exhaustion of state remedies to pretrial habeas petitions.” (citing *Neville v. Cavanagh*, 611 F.2d 673, 675 (7th Cir. 1979))). On July 16, 2022, Bradley filed a petition for writ of habeas corpus in Milwaukee County Circuit Court, seeking dismissal of the charges pending against him and his release from custody. The circuit court denied the petition on August 15, 2022. In his objection, Bradley concedes that he has appealed the denial of his state writ of habeas corpus but has not received a decision on the appeal. Dkt. No. 6 at 1. Because Bradley has not fully exhausted his state court remedies, the petition must be dismissed.

For these reasons, the court overrules Bradley’s objection and adopts Magistrate Judge Duffin’s Report and Recommendation. The petition is **DISMISSED without prejudice** based on Bradley’s failure to exhaust his state court remedies. The Clerk is directed to enter judgment accordingly.

SO ORDERED at Green Bay, Wisconsin this 2nd day of December, 2022.

s/ William C. Griesbach
William C. Griesbach
United States District Judge